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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

**PRESENTMENT DATE and TIME:
SEPTEMBER 1, 2017 AT 12:00 NOON**

-----X

In re

:

ROBERT SCOGNA,

:

CHAPTER 13

Debtor.

:

CASE NO.: 14-23403 (RDD)

-----X

**NOTICE OF PRESENTMENT OF ORDER AUTHORIZING THE RETENTION
OF KELLER WILLIAMS REALTY PARTNERS AS REAL ESTATE BROKER
FOR THE DEBTOR**

PLEASE TAKE NOTICE that upon the annexed application (the "Application") of
PENACHIO MALARA LLP, (the "Firm") made on behalf of **ROBERT SCOGNA**, the above-
referenced debtor (the "Debtor") pursuant to Section 327(a) of Title 13, United States Code, as
amended (the "Bankruptcy Code"), and Bankruptcy Rule 2014(a) seeking authority to employ
KELLER WILLIAMS REALTY PARTNERS as broker with respect to the marketing of the
premises at 49 Embree Street, Tarrytown, NY 10591, the annexed order will be presented to the
Honorable Robert D. Drain, United States Bankruptcy Judge, in his Chambers at the United
States Bankruptcy Court, Charles L. Brieant, Jr. Federal Building and Courthouse, 300
Quarropas Street, White Plains, NY 10601 on September 1, 2017 at 12:00 Noon.

PLEASE TAKE FURTHER NOTICE, that a copy of the Application is available on
the Bankruptcy Court website, www.nysb.uscourts.gov, and from the undersigned on request.

PLEASE TAKE FURTHER NOTICE, that, objections, if any, should be filed and served upon the undersigned with a copy delivered to the Bankruptcy Judge's Chambers, on or before the presentment date. In the event that no objections are interposed, the proposed order may be entered.

Dated: August 18, 2017
White Plains, New York

PENACHIO MALARA LLP

/s/Anne Penachio

Anne Penachio, Esq.
Counsel to the Debtor
235 Main Street - Suite 610
White Plains, NY 10601
(914) 946-2889

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re :

ROBERT SCOGNA, :

CHAPTER 13

Debtor. :
-----X

CASE NO.: 14-23403 (RDD)

**ORDER AUTHORIZING THE DEBTOR TO RETAIN KELLER WILLIAMS REALTY
PARTNERS AS HIS REAL ESTATE BROKER**

Upon the application, by notice of presentment dated August 18, 2017 (the "Application") of Robert Scogna, the debtor herein (the "Debtor"), for an order under 11 U.S.C. §§327(a) and 363(b) authorizing his retention of **KELLER WILLIAMS REALTY PARTNERS** (the "Broker") as his real estate broker in this case with respect to the premises at 49 Embree Street, Tarrytown, NY 10591 (the "Property") pursuant to the terms of the Exclusive Right to Sell Agreement (the "Agreement") annexed to the Application as Exhibit A; and upon the affirmation of Mark Boyland, agent, annexed to the Application as Exhibit B; and there being due and sufficient notice of the Application; and there being no objections to the requested relief; and no additional notice or a hearing being required; and it appearing that the Broker does not hold or represent an interest adverse to the Debtor or his estate, that it is disinterested under 11 U.S.C. §101(14), and that its retention is necessary and in the best interests of the estate; and it further appearing that the terms of the Broker's compensation under the Agreement (6% aggregate commission) are reasonable for purposes of 11 U.S.C. §328(a), it is hereby

ORDERED, that the Application is granted and the Debtor is authorized to retain the Broker on the terms set forth in the Agreement, subject to a proper application under 11 U.S.C. §330 and the applicable Bankruptcy Rules, Local Rules and fee expense guidelines and orders of the Court, which may be included in the motion for authority to sell the Property.

Dated: White Plains, New York
September ___, 2017

United States Bankruptcy Judge
Honorable Robert D. Drain

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

**PRESENTMENT DATE and TIME:
SEPTEMBER 1, 2017 AT 12:00 NOON**

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In re :

ROBERT SCOGNA, :

CHAPTER 13

Debtor. :

CASE NO.: 14-23403 (RDD)

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**THE DEBTOR'S APPLICATION FOR AN ORDER AUTHORIZING HIM TO RETAIN
KELLER WILLIAMS REALTY PARTNERS AS HIS REAL ESTATE BROKER**

**TO: THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE**

ROBERT SCOGNA, the debtor herein (the "Debtor"), by and through his counsel, **PENACHIO MALARA, LLP**, in support of his application for an order authorizing the retention of **KELLER WILLIAMS REALTY PARTNERS** to act as real estate broker ("Broker") with respect to the premises at 49 Embree Street, Tarrytown, NY 10591 (the "Premises"), respectfully sets forth as follows:

I. BACKGROUND

1. On October 4, 2014, the Debtor filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code, as amended (the "Bankruptcy Code"), with the Clerk of this Court and the case was referred to the Bankruptcy Judge herein.

2. Jeffrey L. Sapir was appointed as Trustee and continues to serve in that capacity.

3. The Debtor, who works various construction projects, has been experiencing financial reverses for a number of years. Such reverses were caused by a number of failures including business setbacks (he formerly owned a deli) and health issues.

4. The Debtor's primary asset is the Premises. The Premises is older and has not been updated. It could be described as a "fixer upper". It is also in close proximity to a major highway. The Debtor owns the Premises jointly with his wife. The two are living separately.

5. Seterus, Inc. ("Seterus") holds a mortgage on the Premises. The Debtor obtained a modification of his mortgage with Seterus and same was approved on July 16, 2015 (Dkt. No. 43). Notwithstanding the modification, the Debtor has not been able to make the monthly payments.

6. During this case, the Court also granted the Debtor's application to "strip off" the junior mortgage held by Mauro Group, Inc. (Dkt. No. 28).

7. It is no longer economically feasible for the Debtor to retain the Premises. After exploring his options, the Debtor has decided to sell the Premises.

8. The Debtor seeks to retain the Broker pursuant to the terms of an agreement, a copy of which is annexed hereto as Exhibit A. The proposed commission is 6%, which is standard for this type of property. Payment is subject to Court approval.

9. The Broker is a "disinterested person" and does not hold any interest adverse to the Debtor or any creditors. Mark Boyland, an agent, has submitted an affidavit to that effect, a copy of which is annexed hereto as Exhibit B.

10. Mr. Boyland is a seasoned real estate broker, with substantial experience in the geographic area where the Premises is located.

II. RELIEF REQUESTED

11. By this application, the Debtor seeks an order from this Court (i) authorizing him to retain the Broker to market the Premises pursuant to a brokerage agreement in the form annexed hereto as Exhibit A and (ii) granting such other and further relief as the Court deems just and proper.

III. JURISDICTION AND STATUTORY PREDICATES FOR RELIEF

12. This Court has jurisdiction over the application pursuant to 28 U.S.C. 157 and 1334 and the "Standing Order of Referral Cases to Bankruptcy Judges" dated July 10, 1984 (Ward, Acting C.J.). Venue in this district is proper pursuant to 28 U.S.C. c 1408. The statutory predicates for the relief sought herein are Sections 105, 541 and 327 of the Bankruptcy Code.

IV. THE RELIEF REQUESTED SHOULD BE GRANTED

13. Section 327 of the Bankruptcy Code authorizes a debtor to retain professionals to assist him or his so long as the professional is disinterested and does not hold any interest adverse to the debtor's estate.

14. In the instant case, it is submitted that the retention of a real estate broker is necessary because it will enable the Debtor to realize the maximum value for the Premises. This will ultimately benefit the Debtor's creditors and enable him to emerge from bankruptcy.

15. The Debtor should be authorized to retain the Broker to market the Premises with compensation to be awarded upon application to the Court. The Broker is a disinterested person and does not hold any interest adverse to the Debtor or his creditors. See Exhibit B.

V. NOTICE AND WAIVER OF MEMORANDUM OF LAW

16. Notice of this application was served on all creditors, the Chapter 13 Trustee and all parties that have filed a "Notice of Appearance."

17. No previous application for the relief sought herein was sought from this, or any other Court.

18. Because the facts and circumstances set forth herein do not present novel issues of fact or law, it is respectfully requested that the Court waive the requirement of filing a memorandum of law imposed by the Local Bankruptcy Rules.

WHEREFORE, it is respectfully requested that the Court grant the relief requested herein and enter an order in the form annexed hereto approving the Broker's retention and such other and further relief as may be appropriate.

Dated: White Plains, New York
August 18, 2017

PENACHIO MALARA, LLP

/s/ Anne Penachio
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